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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,886	02/27/2004	John W. Meyer	647.06	9323
	7590 10/04/2005		EXAMINER	
Richard C. Conover P.O. Box 1329 Bozeman, MT 59771-1329			WILLATT, STEPHANIE L	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/789,886

Applicant(s)

MEYER ET AL.

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muehlhoff (US 3,058,633) in view of Price (US 5,772,069) and Witt, Jr. (US 5,279,450).

Muehlhoff discloses a container (20) with an elongate, hollow, bent spout (2). The spout (2) has an opening (free end 27) at a first end and internal threads (11d) at a second end, which mate with external threads (22) on the container neck (1), as shown in Figures 4 and 5. The bent portion of the spout (2) extends in a direction that is generally perpendicular to the rest of the spout (2), as shown in Figures 3 and 4. The spout (2) may be flexible, as discussed in column 2, lines 10-16. Since the spout (2) may be flexible, it could be bent so that the bent portion is 1/3<sup>rd</sup> of the length of the remainder of the spout (2). Figures 3 and 4 show how the lower portion of the spout (2) includes an enlarged portion that includes female threads (11d).

Muehlhoff does not disclose a holder for the container. Price discloses a holder (500) for a container (cup 100). The holder (500) has a mounting bracket (plate 570). The holder (500) has a channel extending circumscribing the bottom of the holder. A

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flange of the container (cup 100) fits in the channel, as discussed in column 2, lines 23-36. The bottom of the holder (500) has a shape corresponding with the shape of the bottom of the container (cup 100). The bottom of the holder (500) has cutouts between the ribs (562). It would have been obvious to one with ordinary skill in the art at the time the invention was made to include a holder for Muehlhoff's container in order to provide a place for the container to rest when not in use, as taught by Price.

Muehlhoff does not disclose finger grips on the spout. Witt, Jr. discloses a container with finger grips (grooves 24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the spout of Muehlhoff with finger grips, as taught by Witt, Jr., in order to provide a comfortable gripping section for users.

### ***Conclusion***

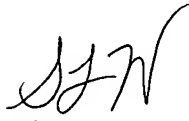
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jordan (US 3,338,482) discloses a spout for a container. Winkler (US 6,739,486) discloses a dispenser for filling divots.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
slw

  
**KEVIN SHAVER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**